

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 590

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Subject: Private property rights protection act

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Overview

House File 590 establishes a process for determining relief or compensation for a property owner for the market value reduction due to an unfairly burdensome government regulation when the burden does not arise to the level of a constitutional taking.

- 1 Cite, intent, definitions.** Provides as the citation for the bill "private property rights protection act." States the intention to create a cause of action separate from takings law for relief or compensation for an owner of real property the use of which is unfairly burdened by law, regulation, ordinance, or land use plan.
Defines vested right, existing use, governmental entity, action of a governmental entity, inordinate burden (does not include prevention or abatement of public nuisances), property owner, and real property.
- 2 Procedure.**
 - Subd. 1. Property owner submission of claim.** Requires a property owner suing under this bill to submit to the government entity a written claim with an appraisal of the value of the property. Describes the procedure when more than one government entity is involved.
 - Subd. 2. Governmental required response.** Requires the government entity to notify all parties to an administrative action that gives rise to the claim and to owners of property contiguous to the owner's property. Provides for notice to the state attorney general.
 - Subd. 3. Settlement provisions allowed.** Requires the government entity to make a settlement offer during the notice period. Specifies the possible bases for settlement offer.
 - Subd. 4. Settlement accepted, judicial review.** Allows the government to implement the settlement if it is accepted. Provides for judicial review of the settlement agreement to ensure that the agreement does not result in a public nuisance at common law.
 - Subd. 5. Settlement refused, ripeness decision.** Directs the government entity to issue a "ripeness decision" if the settlement offer is refused. The "ripeness decision" must identify to

what uses the property may be put and makes the matter ripe for judicial review. Provides for the court to determine if there is an inordinate burden.

Subd. 6. Damages phase. Provides for a jury to determine damages. Describes how the damages must be calculated and requires market value to be established by fully accredited commercial appraisers. Provides for a property owner who prevails to recover costs and attorney fees, to be determined by the court (not the jury).

- 3 Conditions upon acquisition of easements.** Requires easements acquired to be definitely and specifically described, limited to the minimum needed, and paid for prior to acquisition.
- 4 Governmental rights of use.** Vests in the government entity the right, title, and interest in the property if compensation is paid.
- 5 Dispute resolution encouraged.** Allows for agreed-to alternative dispute resolution.
- 6 Government liability limited.** States intent of bill is to provide compensation for a taking that does not amount to a taking under the state or federal constitution. States that the bill provides remedies in addition to any other available under law, but that a government's liability is only to pay once.
- 7 Limitations.** Establishes a six-year statute of limitations.
- 8 Existing regulatory programs.** Applies the bill to new and existing regulations applied for the first time to the property after the effective date.
- 9 Tax adjustment.** Requires a property tax adjustment downward to reflect the reduction in fair market value of a property due to a government regulation.
- 10 Tolling of tax payments.** Tolls taxes from date of "ripeness decision" to final settlement if the owner is unable to pay due to application of the regulation that is deemed to impose an inordinate burden.
- 11 Conditional waivers prohibited.** Prohibits conditioning approvals of land uses on the owner waiving provisions of this bill. Allows owners to reserve rights under this bill in writing.
- 12 Sovereign immunity.** Provides that the bill does not affect sovereign immunity.